

Important State and Federal Laws Pertaining to Public Library Operations

The primary law concerning the establishment and operation of Wisconsin public libraries and public library systems is Wisconsin Statutes Chapter 43. Many of the provisions of Chapter 43 are summarized in this publication. The full text of Chapter 43 is available at <http://www.dpi.state.wi.us/dltcl/pld/pdf/libstat.pdf>. If you need a paper copy of Chapter 43, contact your library director, your library system, or the Division for Libraries, Technology, and Community Learning.

Many other state and federal laws apply to aspects of public library operations, and to required as well as prohibited conduct of library boards, individual library trustees, and library employees.

Employment and equal rights laws

An extensive body of both federal and state law applying to public library operations concerns employment law and equal rights law. The applicable *federal* laws prohibiting job discrimination are:

- Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, or national origin.
- The Equal Pay Act of 1963 (EPA), which protects men and women who perform substantially comparable work in the same establishment from sex-based wage discrimination.
- The Age Discrimination in Employment Act of 1967 (ADEA), which protects individuals who are 40 years of age or older.
- Title I and Title V of the Americans with Disabilities Act of 1990 (ADA), which prohibit employment discrimination against qualified individuals with disabilities in the private sector and in state and local governments.
- The Civil Rights Act of 1991, which, among other things, provides monetary damages in cases of intentional employment discrimination.

Answers to frequently asked questions about these laws is available from the Federal Equal Rights Commission web site at <http://www.eeoc.gov/facts/qanda.html>. Every employer covered by the nondiscrimination and equal employment opportunity laws is required to post on its premises the poster about these laws available at <http://www.dol.gov/dol/esa/public/regs/compliance/posters/pdf/eeobw.pdf>.

The Federal Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, record-keeping, and child labor standards. A *Handy Reference Guide to the Fair Labor Standards Act* is available at <http://www.dol.gov/dol/esa/public/regs/compliance/whd/hrg.htm>.

Most employers must provide certain types of family leave under both the state and the federal Family Medical Leave Acts (FMLA). A comparison of the requirements of these two laws is available at <http://www.dwd.state.wi.us/notespub/dwdpub/2322/ERD-9680-P.pdf>. Employers that fall under both the state and the federal FMLA must comply with the provisions most beneficial to the employee.

Wisconsin has many other laws dealing with employment and employment discrimination. The Wisconsin Department of Workforce Development has many publications on employment laws and equal rights laws available at <http://www.dwd.state.wi.us/notespub/dwdpub/39e.htm>. State employment law posters are also available from that web address.

As discussed in *Trustee Essentials* #20 and #21, the federal Americans with Disabilities Act (ADA) has two parts that apply to public libraries. Title I requires equal employment opportunities for individuals with disabilities. Title II prohibits discrimination on the basis of disability in state and local government buildings and services (including public library buildings and services).

Other state laws

Below are other Wisconsin laws that must be followed by Wisconsin library boards, individual library trustees, library employees, and others.

Public records and property law. Wisconsin Statutes Sections 19.21 to 19.39. See *Trustee Essential* #15.

Code of ethics for public officials and employees. Wisconsin Statutes Sections 19.41 to 19.59. See *Trustee Essential* #16.

Personal information practices act. Wisconsin Statutes Sections 19.62 to 19.80. See *Trustee Essential* #15.

Open meetings law. Wisconsin Statutes Sections 19.81 to 19.98. See *Trustee Essential* #14.

Municipal officials' procedures for payment of public library (and other) expenditures. Wisconsin Statutes Section 66.0607(4):

Except as provided in sub. (3m), if a board, commission or committee of a county, city, village, town or school district is vested by statute with exclusive control and management of a fund, including the audit and approval of payments from the fund, independently of the governing body, payments under this section shall be made by drafts or order checks issued by the county, city, village, town or school clerk upon the filing with the clerk of certified bills, vouchers or schedules signed by the proper officers of the board, commission or committee, giving the name of the claimant or payee, and the amount and nature of each payment.

Open personnel records law. Wisconsin Statutes Section 103.13. (See <http://www.dwd.state.wi.us/notespub/dwdpub/237a/ERD-7749-P.pdf> for explanation.)

Misconduct in office. Wisconsin Statutes Section 946.12. See *Trustee Essential* #16.

Private interests in public contracts. Wisconsin Statutes Section 946.13(1)(b). See *Trustee Essential* #16.

Theft of library materials. Wisconsin Statutes Section 943.61:

(1) In this section:

(a) "Archives" means a place in which public or institutional records are systematically preserved.

(b) “Library” means any public library; library of an educational, historical or eleemosynary institution, organization or society; archives; or museum.

(c) “Library material” includes any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts or other documentary, written or printed materials, regardless of physical form or characteristics, belonging to, on loan to or otherwise in the custody of a library.

(2) Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be penalized as provided in sub. (5).

(3) The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library’s procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of the person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.

(4) An official or adult employee or agent of a library who has probable cause for believing that a person has violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to the person’s parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose for the detention and be permitted to make phone calls, but shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

(5) Whoever violates this section is guilty of:

(a) A Class A misdemeanor, if the value of the library materials does not exceed \$1,000.

(b) A Class E felony, if the value of the library materials exceeds \$1,000 but not \$2,500.

(c) A Class C felony, if the value of the library materials exceeds \$2,500.

This Trustee Tool provides only a general outline of the law and should not be construed as legal advice in individual or specific cases where additional facts might support a different or more qualified conclusion.

Trustee Essentials: A Handbook for Wisconsin Public Library Trustees was prepared by the DLTCL with the assistance of the Trustee Handbook Revision Task Force. Copyright 2002 Wisconsin Department of Public Instruction. Duplication and distribution for not-for-profit purposes permitted with this copyright notice. This publication is also available at <http://www.dpi.state.wi.us/dltcl/pld/handbook.html>.